



POLICE DEPARTMENT

May 25, 2018

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In the Matter of Charges and Specifications	:	Case No.
- against -	:	2017-17100
Police Officer Fady Azmy	:	
Tax Registry No. 947976	:	
84 th Precinct	:	

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At: Police Headquarters
One Police Plaza
New York, New York 10038

Before: Honorable Paul M. Gamble
Assistant Deputy Commissioner Trials

APPEARANCES:

For the Department: Samuel Yee, Esq.
Department Advocate's Office
One Police Plaza
New York, NY 10038

For the Respondent: Craig Hayes, Esq.
Worth, Longworth & London, LLP
111 John Street, Suite 640
New York, NY 10038

To:

HONORABLE JAMES P. O'NEILL
POLICE COMMISSIONER
ONE POLICE PLAZA
NEW YORK, NEW YORK 10038

CHARGES AND SPECIFICATIONS

1. Said Detective Fady Azmy, while assigned to the Intelligence Operations and Analysis Section, on approximately twenty-seven (27) occasions, on or about and between June 1, 2016 and October 31, 2016, was absent from or late to his assignment without permission or police necessity and failed to submit Leave of Absence Reports (UF-28) for lost time, as required, resulting in said Detective improperly receiving approximately forty-one (41) hours and forty-six (46) minutes of straight-time compensation, improperly being paid at an overtime rate instead of a straight-time rate for approximately sixteen (16) hours and twenty-six (26) minutes, and improperly receiving approximately forty-five (45) minutes in compensatory time. *(As Amended)*
P.G. 203-05, Page 1, Paragraph 1, 2 PERFORMANCE ON DUTY -
GENERAL REGULATIONS

P.G. 203-10, Page 1, Paragraph 5 PUBLIC CONTACT - PROHIBITED
CONDUCT GENERAL REGULATIONS

P.G. 206-03 Page 1, Paragraph 13 VIOLATIONS SUBJECT TO
COMMAND DISCIPLINE
DISCIPLINARY MATTERS
AUTHORIZED LEAVE

P.G. 203-20, Page 1, Paragraph 1 GENERAL REGULATIONS
2. Said Detective Fady Azmy, while assigned to the Intelligence Operations and Analysis Section, on approximately twenty-four (24) occasions, on or about and between June 1, 2016 and October 31, 2016, while on duty, wrongfully made or caused to be made inaccurate entries in the Intelligence Operations and Analysis Section Command Log and in his Activity Log.
P.G. 203-05, Page 1, Paragraph 4 PERFORMANCE ON DUTY - GENERAL
GENERAL REGULATIONS
3. Said Detective Fady Azmy, while assigned to the Intelligence Operations and Analysis Section, while on duty, on approximately three (3) occasions, on or about and between June 1, 2016 and October 31, 2016, wrongfully failed to make required entries to Department records in that said Detective failed to sign in or sign out on the Roll Call.
P.G. 203-10, Page 1, Paragraph 5 PUBLIC CONTACT - PROHIBITED
CONDUCT GENERAL REGULATIONS

P.G. 212-03, Page 1, Paragraph 11 EXPIRATION OF TOUR
COMMAND OPERATIONS

4. Said Detective Fady Azmy, while assigned to the Intelligence Operations and Analysis Section, on approximately ten (10) occasions, on or about and between June 1, 2016 and October 31, 2016, wrongfully failed and neglected to make required entries in his Activity Log.

P.G. 212-08, Page 1, Paragraph 1 ACTIVITY LOGS
COMMAND OPERATIONS

5. Said Detective Fady Azmy, while assigned to the Intelligence Operations and Analysis Section and while on duty, on or about September 7, 2016, traveled to New Jersey to engage in non-Department business without permission or authority to do so, thereby wrongfully absenting himself from work for approximately four (4) hours.

P.G. 203-05, Page 1, Paragraph 1, 2 PERFORMANCE ON DUTY - GENERAL
GENERAL REGULATIONS

6. Said Detective Fady Azmy, while assigned to the Intelligence Operations and Analysis Section and while on duty, on or about June 10, 2016, wrongfully drove his personal vehicle without permission or authority to transport a Member of the Service receiving medical treatment.

A.G. 325-14 PRIVATE VEHICLES AUTHORIZATION
DEPARTMENT PROPERTY

7. Said Detective Fady Azmy, while assigned to the Intelligence Operations and Analysis Section, on approximately eighteen (18) occasions, on or about and between June 1, 2016 and September 30, 2016, wrongfully made inaccurate entries in Department records in that said Detective improperly submitted overtime slips stating that he had worked his entire scheduled tour when he actually had not, thereby allowing said Detective to be improperly paid at an overtime pay rate for certain time periods.

P.G. 203-05, Page 1, Paragraph 4 PERFORMANCE ON DUTY - GENERAL
GENERAL REGULATIONS

P.G. 205-17 OVERTIME
PERSONNEL MATTERS

REPORT AND RECOMMENDATION

The above-named member of the department appeared before me on April 17, 2018.

Respondent, through his counsel, entered pleas of Guilty to the subject charges and testified in mitigation of the penalty. A stenographic transcript of the mitigation record has been prepared and is available for the Police Commissioner's review.

Respondent, having pleaded Guilty, is found Guilty of all Specifications.

SUMMARY OF EVIDENCE IN MITIGATION

Respondent testified that he and his family immigrated to the United States in 1996 when he was 15 years old. He attended Long Island University, then transferred to Brooklyn College, from which he received a degree in business. Respondent was employed by a mortgage company for three and one-half years before he was appointed to this Department in January 2009. After graduating from the Police Academy, he spent three years in Operation Impact, covering the 77th and 79th Precincts. Respondent was then assigned to patrol duties in the 77th Precinct.

Respondent applied for, and was accepted to, the Intelligence Division in 2015, largely on the basis of his Arabic language skills. In his new assignment, Respondent reported to the Cyber Unit, whose members performed their police duties in an office environment. Aside from the requirement that he work an eight hour, 33 minute tour on duty days, Respondent was permitted to set his own schedule. In this assignment, Respondent performed translations, participated in undercover investigations and monitored social media. Respondent was promoted to Detective in August 2016.

Respondent testified that during the period from June 2016 through October 2016, his [REDACTED] underwent two cardiac surgeries. During [REDACTED] post-surgical hospital stays, it was necessary for Respondent and [REDACTED] to share the responsibility of remaining with [REDACTED] overnight, because [REDACTED] speaks no English.

Respondent testified that on or about September 7, 2016, he received a telephone call from a family member informing him that [REDACTED] had four hours to live. Respondent admitted that he acted without informing his chain of command that he needed to leave work and simply proceeded to New Jersey before obtaining the proper authorization. He drove to a

meeting to pick up [REDACTED], then proceeded with [REDACTED] to the hospital, where they saw [REDACTED] who passed away several hours later.

Respondent admitted that when he was transferred from the Patrol Services Bureau to the Intelligence Division, he took advantage of the freedom he had to set his own schedule. According to Respondent, because he knew he would not have a sergeant "scratching" his memo book twice a tour, he neglected to complete daily activity log entries. In that same vein, Respondent made false entries in the command logs asserting that he reported for duty at a time earlier than he actually had; Respondent compounded the falsehoods by submitting overtime slips for additional compensation based upon the false entries.

According to Respondent, after he was served with charges in this case, he was demoted from Detective to Police Officer and transferred to the 84th Precinct. Respondent was removed from the Sergeants promotional list, and asserted that he would have been promoted to that rank in May 2018. Respondent further asserted that he suffered a pay cut of approximately \$10,000 when he was demoted from Detective to Police Officer. Respondent also claimed that he suffered a loss of economic opportunity of approximately \$9,000-10,000 based on the pay differential between Detective pay to the highest pay for a Sergeant. Finally, Respondent testified that he lost eight chart days.

Respondent testified that he underwent [REDACTED] as he prepared to sit for the Sergeants promotional examination, the final [REDACTED] two weeks before the examination. Respondent claimed that he suffered from [REDACTED] as a result of his demotion and transfer to the 84th Precinct, resulting in an emergency room visit [REDACTED] [REDACTED]. Respondent has not experienced any additional [REDACTED] episodes [REDACTED] [REDACTED]

PENALTY

In order to determine an appropriate penalty, Respondent's service record was examined. See Matter of Pell v. Board of Educ., 34 N.Y.2d 222, 240 (1974). Respondent was appointed to the Department on January 14, 2009. Information from his personnel record that was considered in making this penalty recommendation is contained in an attached confidential memorandum. The Department Advocate asks that Respondent forfeit 25 vacation days. I find the requested penalty insufficient to address the seriousness of Respondent's misconduct.

In previous disciplinary cases, Respondents found guilty of abusing the Department's time and leave policy have received penalties from 25 to 60 vacation days, 154 suspension days without pay and dismissal probation (*Disciplinary Case No. 2009-116* [July 23, 2012])[Eighteen-year police officer with no prior disciplinary record negotiated a penalty of 60 vacation days, one year dismissal probation, \$4888.44 in restitution and to file for vested-interest retirement for submitting cash overtime slips on 17 separate dates for a total of 107 hours and 45 minutes for enforcement duties not performed; failing to maintain his Activity Log, causing false entries to be made in Department records; improperly preparing 112 summonses with incorrect information; and failing to conduct mandatory driver's license checks on numerous occasions while issuing summonses for moving violations]; *Disciplinary Case No. 2015-14433* [May 25, 2016])[Eleven-year sergeant, with no prior disciplinary history, forfeited 30 vacation days after a mitigation hearing for: (i) improperly using a Department vehicle and a Department MetroCard for an unauthorized purpose; (ii) being absent from his assignment without permission or police necessity and failing to submit leave of absence reports for said absences totaling approximately 6 hours and 6 minutes; (iii) making inaccurate entries in Department records in that he improperly submitted overtime slips falsely indicating the time he left work; and, (iv) wrongfully failed and neglected to make entries regarding his whereabouts or activities in his Activity Log

consciously failed to do so, and further benefited from his misconduct by improperly submitting Overtime Slips on eighteen (18) occasions, falsely asserting that he qualified for enhanced compensation having worked longer than his prescribed tour of duty. Respondent's failure to make accurate activity log entries, as well as his failure to sign in and out of Roll Call, were part and parcel of Respondent's efforts to misrepresent the times that he actually reported for duty.

While Respondent admitted to failing to secure the proper authorization to use his personal vehicle to transport a member of the service for medical treatment, he offered no evidence of mitigation regarding this specification.

Respondent's attempt to share care-giving responsibilities with [REDACTED] for their [REDACTED] during the latter half of 2016 provides some evidence of personal stress which mitigates the general pattern of time abuse; it does not, however, mitigate the submission of overtime slips based upon false information which Respondent knew to be false at the time he submitted them.

Respondent's unauthorized travel to New Jersey is mitigated by the unique nature of the urgent summons he received to the bedside of a terminally ill relative. While Respondent testified regarding his own serious health issues, there is no evidence in the record to support a finding that those issues contributed to his absences from duty. To the contrary, Respondent commendably underwent [REDACTED] while studying for the Sergeant's promotional examination.

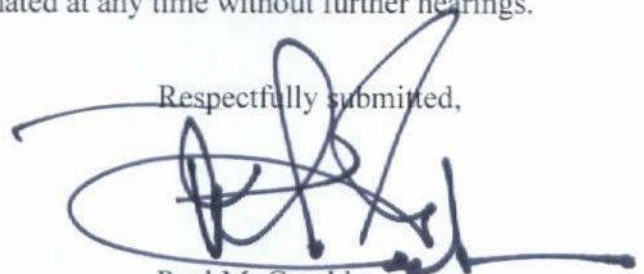
While it is true that Respondent was removed from the 2013 Sergeant's promotional list, as well as demoted from the rank of probationary Detective to Police Officer, these actions were completely within the authority of the Police Commissioner to take. It was Respondent's own

misconduct which rendered him ineligible for promotion, and which provided a basis for the revocation of his probationary status as a Detective.

While I have found some evidence of mitigation in this case, I note that such evidence is significantly outweighed by the gravamen of the misconduct to which Respondent has pled guilty: consciously making false entries in official Department records about his reporting times in a work environment which utilized an honor system. Respondent engaged in this pattern of behavior while assigned to an elite unit working on extremely sensitive investigations. Respondent was given the discretion ordinarily afforded a supervisor of higher rank due to his unique skill-set and the needs of the Department. In addition to violating that trust, Respondent thoughtlessly placed his veracity in jeopardy.

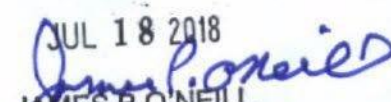
Accordingly, I recommend that Respondent forfeit thirty (30) vacation days. I further recommend that Respondent be DISMISSED from the New York City Police Department, but that his dismissal be held in abeyance for a period of one year, pursuant to Section 14-115(d) of the Administrative Code, during which time he remains on the force at the Police Commissioner's discretion and may be terminated at any time without further hearings.

Respectfully submitted,



Paul M. Gamble
Assistant Deputy Commissioner Trials

APPROVED

JUL 18 2018

JAMES P. O'NEILL
POLICE COMMISSIONER



POLICE DEPARTMENT CITY OF NEW YORK

From: Assistant Deputy Commissioner – Trials

To: Police Commissioner

Subject: CONFIDENTIAL MEMORANDUM
POLICE OFFICER FADY AZMY
TAX REGISTRY NO. 947976
DISCIPLINARY CASE NO. 2017-17100

Respondent was appointed to the Department on January 14, 2009.

On his last three performance evaluations, Respondent received three overall ratings of 4.0 "Highly Competent" in 2016, 2015, and 2014.

Respondent has no formal disciplinary history.

For your consideration.

Paul M. Gamble
Assistant Deputy Commissioner Trials